

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

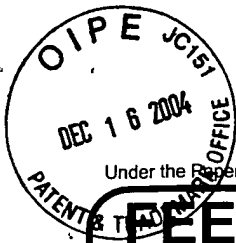
| | | | |
|--------------------------------------------------------------------------------------------|----------------------|------------------------|-------------|
| TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i> | Application Number | 10/679,255 | |
| | Filing Date | October 3, 2003 | |
| | First Named Inventor | Michael M. Mann et al. | |
| | Art Unit | | |
| | Examiner Name | | |
| Total Number of Pages in This Submission | 15+ | Attorney Docket Number | 65568/ENCMP |

| ENCLOSURES (check all that apply) | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance communication to Technology Center (TC) |
| <input checked="" type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment / Reply | <input type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Terminal Disclaimer | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Request for Refund | 1. CD Transmittal Letter dated November 29, 2004. |
| <input type="checkbox"/> Information Disclosure Statement | <input checked="" type="checkbox"/> CD, Number of CD(s) <u>2*</u> | 2. . Attachments A and B. |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | Remarks | |
| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application | *Two Replacement CDs. | |
| <input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | |
|--------------------------------------------|----------------------------------------------------------|
| Firm or Individual name | Gilbert G. Kovelman Fulwider Patton Lee & Utecht, LLP |
| Signature | |
| Date | December 13, 2004 |

| CERTIFICATE OF TRANSMISSION/MAILING | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------|-------------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the | | | |
| Typed or printed name | Gilbert G. Kovelman | | |
| Signature | | Date | December 13, 2004 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



PTO/SB/17 (10-03)
Approved for use through 07/31/2006. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) \$510.00

Complete if Known

Application Number 10/679,255
Filing Date October 3, 2003
First Named Inventor Michael M. Mann et al.
Examiner Name
Art Unit
Attorney Docket No. 65568/ENCMP

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit
Account
Number

06-2425

Deposit
Account
Name

Fulwider Patton Lee & Utecht, LL

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1001 | 790 | 2001 | 395 | Utility filing fee | |
| 1002 | 350 | 2002 | 175 | Design filing fee | |
| 1003 | 550 | 2003 | 275 | Plant filing fee | |
| 1004 | 790 | 2004 | 395 | Reissue filing fee | |
| 1005 | 160 | 2005 | 80 | Provisional filing fee | |
| SUBTOTAL (1) | | | | | (\$) |

2. EXTRA CLAIM FEES FOR UTILITY AND

| Extra Claims | | Fee from below | Fee Paid |
|--------------------|---------|----------------|----------|
| Total Claims | -20** = | | |
| Independent Claims | -3** = | | |
| Multiple Dependent | | | |

| Large Entity | | Small Entity | | Fee Description |
|--------------|----------|--------------|----------|------------------------------------------------------------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | |
| 1202 | 18 | 2202 | 9 | Claims in excess of 20 |
| 1201 | 88 | 2201 | 44 | Independent claims in excess of 3 |
| 1203 | 300 | 2203 | 150 | Multiple dependent claim, if not paid |
| 1204 | 88 | 2204 | 44 | ** Reissue independent claims over original patent |
| 1205 | 18 | 2205 | 9 | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$) \$0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|----------------------------------------------------------------------------|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 | 130 | 1053 | 130 | Non - English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for ex parte reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 430 | 2252 | 215 | Extension for reply within second month | |
| 1253 | 980 | 2253 | 490 | Extension for reply within third month | 510.00 |
| 1254 | 1,530 | 2254 | 765 | Extension for reply within fourth month | |
| 1255 | 2,080 | 2255 | 1,040 | Extension for reply within fifth month | |
| 1401 | 340 | 2401 | 170 | Notice of Appeal | |
| 1402 | 340 | 2402 | 170 | Filing a brief in support of an appeal | |
| 1403 | 300 | 2403 | 150 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive - unavoidable | |
| 1453 | 1,370 | 2453 | 685 | Petition to revive - unintentional | |
| 1501 | 1,370 | 2501 | 685 | Utility issue fee (or reissue) | |
| 1502 | 490 | 2502 | 245 | Design issue fee | |
| 1503 | 660 | 2503 | 330 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR § 1.17(q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Statement | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 790 | 2809 | 395 | Filing a submission after final rejection (37 CFR § 1.129(a)) | |
| 1810 | 790 | 2810 | 395 | For each additional invention to be examined (37 CFR § 1.129(b)) | |
| 1801 | 790 | 2801 | 395 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) \$510.00

SUBMITTED BY

| | | | | | |
|-------------------|----------------------|-----------------------------------|-------------------|-----------|--------------|
| Name (Print/Type) | Gilbert G. Kovellman | Registration No. (Attorney/Agent) | 19,552 | Telephone | 310/824-5555 |
| Signature | | Date | December 13, 2004 | | |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P. O. Box 1450, Arlington, VA 22313-1450 on December 13, 2004.

Gilbert G. Kovelman, Reg. No. 19,552]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : Michael M. Mann et al.
:
Application No. : 10/679,255
:
Filing Date : October 3, 2003
:
For : BUSINESS ANALYSIS AND MANAGEMENT
: SYSTEMS UTILIZING EMERGENT METRICS
:
Examiner : Unassigned
Art Unit :
Confirmation No. : 7674
Docket No. : 65568/ENCMP
Date: : December 13, 2004

RESPONSE TO NOTICE TO FILE
MISSING PARTS OF NONPROVISIONAL APPLICATION

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:


In response to the Notice to File Missing Parts of Nonprovisional Application, Filing Date Granted, mailed July 16, 2004 (copy attached), applicants submit herewith two (2) replacement compact discs with Transmittal Letter dated November 29, 2004 and accompanying related Attachments A and B.

A Request for Extension of Time with appropriate fee is also being filed concurrently herewith.

The Commissioner is authorized to charge any required fee relating to this response to our Deposit Account No. 06-2425. A duplicate copy of this paper is enclosed.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
Gilbert G. Kovelman
Registration No. 19,552

GGK/jb
Enclosures

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
73766.1



TRANSMITTAL LETTER
Metrics
November 29, 2004
Encompass Knowledge Systems, Inc.

This transmittal letter accompanies two copies of a compact disc containing the EnCompass® program, patent application, and other pertinent information. Both CD's are identical.

The following hardware requirements must be met in order to successfully run the software contained on the CD:

- IBM PC or PC compatible computer
- MS Windows NT 4.0, Windows 2000, or Windows XP operating system
- MS Internet Explorer 5.0 or higher
- Pentium CPU
- Minimum 32 MB RAM
- Minimum 100 MB available disk space, for program and local database
- Display adapter and monitor capable of 256 colors at resolution
1024 X 768

Compact Disk Machine Format: IBM-PC

Operating System Compatibility: MS Windows NT 4.0, Windows 2000, or Windows XP operating system with MS Internet Explorer 5.0 or higher.

| File Location | File Name | Size in Bytes | Date of Creation | Notes |
|---------------|-------------|---------------|------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| <root> | AafC.txt | 11,020 bytes | August 9, 2002 | All files in the DCA folder may be viewed using MS Word or a text viewer. These are source code files for the data collection algorithm. |
| <root> | AafH.txt | 2,843 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | AafclsH.txt | 2,985 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | AafmacH.txt | 2,222 bytes | August 9, 2002 | Source code file for the data collection |

| | | | | |
|--------|-------------|---------------|----------------|-----------------------------------------------------|
| | | | | algorithm. |
| <root> | aafrd1C.txt | 26,358 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | aafrd2C.txt | 26,435 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | AafsqlC.txt | 5,328 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | ANRC.txt | 145,875 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | ANRH.txt | 6,368 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | ANRCLSH.txt | 10,219 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | ANRMACH.txt | 41,842 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DcaC.txt | 64,650 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DcaH.txt | 2,822 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | dcabd1C.txt | 9,500 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | dcabd2C.txt | 9,524 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DcaclsH.txt | 3,924 bytes | August 9, 2002 | Source code file |

| | | | | |
|--------|-------------|---------------|----------------|-----------------------------------------------------|
| | | | | for the data collection algorithm. |
| <root> | DcamacH.txt | 1,878 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DcasqlC.txt | 7,769 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DieC.txt | 6,916 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DieH.txt | 1,963 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DieclsH.txt | 1,807 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DiemacH.txt | 1,885 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DIRC.txt | 102,326 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DIRH.txt | 4,683 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DIRCLSH.txt | 4,644 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | DIRMACH.txt | 28,085 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | ISRC.txt | 22,396 bytes | August 9, 2002 | Source code file for the data collection |

| | | | | |
|--------|----------------|--------------|----------------|-----------------------------------------------------|
| | | | | algorithm. |
| <root> | ISRH.txt | 2,083 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | ISRCLSH.txt | 2,314 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | ISRMACH.txt | 4,719 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | TBFH.txt | 2,856 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | TBFCLSH.txt | 12,222 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | TBFMACH.txt | 2,599 bytes | August 9, 2002 | Source code file for the data collection algorithm. |
| <root> | TbfmetricC.txt | 31,417 bytes | August 9, 2002 | Source code file for the data collection algorithm. |

1FW/\$



UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 16 2004

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/679,255 | 10/03/2003 | Michael M. Mann | 65568/ENCMP |

24201
 FULWIDER PATTON LEE & UTECHT, LLP
 HOWARD HUGHES CENTER
 6060 CENTER DRIVE
 TENTH FLOOR
 LOS ANGELES, CA 90045

RECEIVED

JUL 19 2004

FULWIDER PATTON LEE & UTECHT

CONFIRMATION NO. 7674

FORMALITIES LETTER



OC000000013259633

Date Mailed: 07/16/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The compact disc(s) submitted fail to comply with 37 CFR 1.52(e) in that they contain non-ASCII files. A new duplicate set of compact discs with only ASCII files is required. Any replacement compact disc submitted should be accompanied by a certification as required by 37 CFR 1.52(e) that each disc of a duplicate set is identical to the other disc of the set. If a directory of the disc could be printed, it is attached and non-ASCII files are marked on the directory listing.

Replies should be mailed to: Mail Stop Missing Parts
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

Z. Moguss

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE